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ABSTRACT

The paper states the need for providing services to handicapped youthful offenders. Obstacles to compliance with P.L. 94-142, the Education for All Handicapped Children Act, for this population are noted, including lack of staff and funding. Research is cited to show the extent of the problem and project the effects of inadequate programing. The author presents a suggested screening procedure to ensure appropriate identification, assessment, and placement of handicapped persons in correctional facilities. Issues of examiner training and nondiscriminatory assessment tools are considered. The role and functions of the interdisciplinary team are described: psychologists, classroom teachers, social workers (caseworkers), and counselors. Additional information is provided regarding physical and medical examinations, speech and hearing assessments, report writing, and the role of the interdisciplinary team in placement. (CL)

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IMPLEMENTING PUBLIC LAW 94-142 IN CORRECTIONAL FACILITIES: AN APPEAL FOR AN APPROPRIATE IDENTIFICATION ASSESSMENT AND EDUCATIONAL PLACEMENT FOR YOUTH OFFENDERS

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Introduction

Correctional facilities across the country continue to face a formidable challenge to develop and implement specially designed educational programs and services for those handicapped individuals who are incarcerated below age twenty one (21). Despite the relative inertia of some correctional facilities to provide for the needs of handicapped individuals, some jurisdictions have established programs to comply with the mandates of Public Law 94-142 (P.L. 94-142), the Education for All Handicapped Children Act of 1975. This law mandates that all handicapped children have the right to a free appropriate public education.

P.L. 94-142 includes provisions which are designed (1) to assure that all handicapped children have available to them a free appropriate public education; (2) to assure that the rights of handicapped children and their parents are protected; (3) to assist States and localities to provide for the education of handicapped children; and (4) to assess and assure the effectiveness of efforts to educate such children.

The handicapping conditions addressed in P.L. 94-142 include mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services.

As recent as December, 1983, Coffey stated "despite the fact that special educators and correctional educators have become increasingly aware of the special education needs of children, youth and adults in correctional settings and recent studies showing that special educational, vocational and rehabilitation programs can reduce recidivism and welfare costs, very few handicapped offenders are currently receiving specialized educational services." The rules and regulations (121 a, 128, a-1) of P.L. 94-142 specify the all children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified and evaluated. Part 2 of this rule affirms that a practical method must be developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education

and related services.

In the absence of educational, vocational and rehabilitation programs, men and women will continue to leave correctional facilities and face some of the most degrading experiences, i.e., unemployment, poverty, poor health, strained family relationships, and deferred dreams. Obviously, these conditions will further support the erroneous belief that a life of crime is the only way to survive. Men and women will continue to be shackled with poverty, ignorance and be underclassed for a lifetime.

Considerable attention has been given to the needs of the handicapped youthful offender in recent years, yet there are road blocks at various levels that prevent adherance to P.L. 94-142. T.H. Bell, former Secretary of the United States Department of Education, stated that "we must make sure that incarceration is a sentence to temporary loss of freedom; not a sentence to lifelong ignorance, unemployment, poverty, and crime. Warren Burger, Chief Justice of the United States Supreme Court, also stated, "we must accept the reality that to confine offenders behind walls without trying to change them is an inexpensive folly with short term benefits — a winning of battles while losing the war."

A potpourri of rationale for the lack of program development and implementation of specially designed programs for the handicapped offender includes the lack of staff, lack of funding, lack of commitment, and the consideration of security as the first order and priority of corrections. While these reasons are given, it is important to mention that the absence of such programs is a violation of P.L. 94-142 and the requirement that the state shall insure that a free appropriate public education is available to all handicapped children aged three (3) through twenty-one (21) not later than September 1, 1980.

Hedge (1979) reported that lack of funding has been a tremendous obstacle to effective and comprehensive special education programming in correctional settings. Smith, Ramirez and Rutherford (1983) found that insufficient budgets for correction education in some instances may reflect insititutional priortities rather than an actual shortage of funds. Largely, budgets for corrections are not austere and appear to be sufficient for appropriate educational programs.

The lack of appropriate educational programs for youthful offenders place correctional facilities in a vulnerable position for litigation. This message was clearly presented at the conclusion of the Correctional Special Education Conference held in Arlington, Virginia in 1984, when the following was stated in a paper by Ingo Keilitz:

> Special education services for the handicapped youthful offender needing such services are, for the most part, nonexistent. The juvenile justice system simply is not prepared to <u>teach</u>, just as the schools are not prepared to respond to <u>crime</u>. The juvenile justice system soon will have no choice but to provide special education to this unserved and underserved population as the field is pressed by federal and state laws and increased litigation.

Increased litigation will be costly in terms of dollars and more costly with regard to the human resources of thousands of youthful offenders who will be

doomed to failure and continued poverty in the broadest sense of the word. Harvey and Carr (1982) in addressing the need for a holistic approach to analysis and treatment of the Black mentally retarded offender state that "being Black in America poses a myriad of serious problems - being a Black criminal offender intensifies the problems, but being labelled a 'Black mentally retarded offender' in America signs your social and economic death certificate."

With regard to a profile of incarcerated individuals, Harvey and Carr (1982) found that there are approximately 300,000 adults in the states' prison population with a disproportionate number being poor and Black. While Santamour and West (1979) estimate that nine percent to as high as twenty-seven percent of the population has been classified as mentally retarded, i.e., with I.Q.s below 70. Haskins and Friel's research (1973) indicates that "two-thirds of the persons labelled as retarded offenders are Black, generally male and several years older than the non-retarded inmate." Current statistics from the Bureau of Justice cite that the first quarter of 1985 shows a continued increased in the number of individuals incarcerated in state and federal prison with the figure being close to 470,000. Statistics from this agency indicated that approximately 463,866 men and women were in prisons at the end of 1984. Disproportionately, Black men had the highest precentage of incarceration.

Effective Screening of Suspected Handicapped Individuals

The type of screening employed to identify handicapped individuals in correctional settings is critical. While some agencies employ diagnostic tools which require little staff time, there is an urgent need to comply with screening requirements stated in P.L. 94-142.

This paper presents a viable mechanism to screen incarcerated individuals in a nondiscriminatory manner to ensure appropriate identification, assessment, and placement of the handicapped in correctional facilities. Inattentiveness and the lack of specialized education programs will continue to aggravate and perpetuate the "death" of youth who most often are labelled and identified as being poor, handicapped, incarcerated, and powerless to lead a healthy existence in the broadest sense of the word. In short, we must be morally and ethically committed to the provision of substantive educational and habilitation programs and services which will enable individuals rather than disable them. (Incarcerated youthful offenders in this presentation will be referred to as residents.)

To effectively and objectively measure the resident's overall potential, assessment tools should be nondiscriminatory as defined by Mercer (1979): "racially and culturally nondiscriminatory and based on the assumption that differing racial and cultural heritage and the between group difference in average scores on standardized tests used in the schools is accounted for by different levels of exposure to the cultural materials covered in the tests."

Single measures of intelligence discriminate against individuals and sort them into levels which are inappropriately derived. In the absence of comprehensive assessment instruments and apppropriate personnel, single measures are frequently used for educational placements. Some educators rationalize that "short" tests are sufficient until more comprehensive testing is scheduled which may never occur. The Children's Defense Fund (1974) found that group tests or individually administered standardized intelligence tests are the "least expensive way to diagnose a child." Consequently, some school systems and educational agencies tend to identify, assess, place, and program students based on their findings from single measure intelligence tests.

The writer has found that another requisite of any testing must consider the relationship of the test administrator and the student, i.e., psychometrist, psychologist or psychological worker. These individuals play the most important role in the administration and interpretation of test.

Despite the volumes of research and attention given to the testing of minorities, very little or no attention has been given to the issue of training of the test administrator; i.e., psychometrist, psychologist, or psychological worker. These individuals play the most important role in the administration and interpretation of psychological and standardized tests. Their role is critical and influential in the identification, assessment, and placement of literally thousands of Black children and youth in special education classes. The identification of educable mentally retarded children and youth is based for the most part upon tests of intelligence, adminstered by psychologists. Dunn (1971) points out this important and frequently singular role in the assessment of youth:

> The assessment of educational potential has been left to the school psychologist who generally administers - in an hour or so - a psychometric battery, at best consisting of individual tests of intelligence, achievement, and social and personal adjustment. Again, the purpose has been to find out what is wrong with the child in order to label him and thus make him eligible for special education services. In large measure, this has resulted in digging the educational grave of many racially and/or economically disadvantaged children by using a WISC or Binet IQ score to justify the label mentally retarded. This term has become a destructive self-fulfilling prophecy.
>
> Obviously, single tests are bias in the assessment of an individual. Diagnosis based on I.Q. test alone victimize youth. This form of victimization was envisioned as early as 1922 when the famous essayist, Walter Lippman, wrote, "One has only to read around in the literature of the subject, . . . to see how easily the intelligence test can be turned into an engine of cruelty, how easily in the hands of blundering or prejudiced men it could turn into the seal of the child."

Public Law 94-142 addresses the requirement of providing formal nondiscriminatory identification, screening, and diagnostic evaluation of all students requiring special education and related services. The assessment of incarcerated individuals suspected of being handicapped must adhere to federal and local mandates, and made by an interdisciplinary team. The team is generally composed of the teacher, counselor, psychologist, social worker, classification and parole officers and other individuals who work with the student.

The purpose of this interdisciplinary team is to ensure that the assessment, screening and diagnostic evaluations are comprehensive and nondiscriminatory. The team is responsible for identifying which diagnostic category best describes the individual's problem and which educational program is appropriate. In this regard, the team performs an important role in the identification, assessment and diagnosis of residents.

The purpose of any educational program for a handicapped individual is to develop, ameliorate, and/or compensate for those deficit skills in the cognitive, affective, and psychomotor domains so that the person will be able to be educated in the least restrictive environment. Particular attention is given to the development of a specific program to help the student in deficit areas.

In assessing a resident who is suspected of being handicapped, it is important to have an evaluation which is based on a comprehensive review and an assessment of all data pertinent to the individual and his environment. Diagnosis should be made by persons representing several different professions, i.e., medical personnel, psychologist, social workers, educational assessors, teachers, and speech and hearing specialist, and classification and treatment personnel.

The mandate of P.L. 94-142 for non-discriminatory evaluations of youth is rooted in the need for more accountability and responsibility in the assessment process. This requirement is even more urgent in the evaluation of offenders who most often have experienced multiple academic and social problems. Owens (1982) addressed the urgency of accountability in this area and found that "we tend to portray evaluators as neutral forces in the process; when in reality, they are very active participants." They have feelings and attitudes. Simply stated, "the evaluator and the person being evaluated are never asked if there was something they might have said or done that might have influenced the responses of the person."

Limited and single evaluation measures tend to identify a shockingly massive number of individuals as mentally retarded who are and will be controlled and be victims of poverty. This is brought out in the important Larry P. Case against the State of California (1971) when the crucial point was brought out that I.Q. test scores are the principal determinates for the placement of youth in classes for the educable mentally retarded. Hilliard (1981) in commenting on the two most commonly employed I.Q. tests (Stanford - Binet and The Weschler Intelligence Test) points out "that neither of these tests nor any other test of I.Q. ability are valid in measuring a person's mental ability, nor are they valid predictors of academic achievement.

Special areas of the comprehensive evaluation of individuals must include the following.

1. observation in school
2. psychological data regarding the intellectual ability and emotional data
3. academic evaluation
4. demonstrated efforts or strategies to intervene in amelioration learning problems, in the classroom, by the counselor, social worker, school psychologist, and other agency support workers

5. medical data to determine (a) central nervous dysfunction, (b) sensory acuity problems and (c) physical disabilities and/or health problems
6. speech and language screening
7. social history to determine the social, cultural and/or economic factors which may have influence on the learning problems.
8. an adaptive behavior assessment of attention span, hyperactivity, and distractibility

In the first stage of the assessment, observations should be made by the teacher, social worker and psychologist. The purpose of these observations is to determine how the student relates to (1) others in the classroom, (2) interacts with teachers, and (3) persons in the facility. This team should meet to convene a pre-interdisciplinary team meeting to share what their perceptions are about the student's ability in the cognitive, affective, and psychomotor areas.

In this information gathering process, the evaluation team should obtain information regarding the resident. This can be facilitated by the social worker who will collect information by conducting the following activities:

- review the student's school records
- hold interview with the student
- observe the student in a classroom setting

Although school records provide a variety of considerable information on the resident, this data can be minimal and often nondetailed. Consequently, social workers and other members of the assessment team should hold an interview with school and classification and parole personnel for further data. This information needs to be considered in the overall assessment which leads to some decision on the resident's needs.

Role of The Interdisciplinary Team

The specific roles of the interdisciplinary team members are described in the following pages:

Psychologist

The role of the psychologist is critical in the assessment of the resident's emotional and intellectual status. To determine the specific handicapping condition, psychologists must employ assessment instruments which will present some specific information on the rate of growth in affective, cognitive, and psychomotor domains. To appropriately assess these areas, the psychologist should administer tests of specific skills related to academic achievement. Ability assessments are inadequate to make appropriate assessments.

P.L. 94-142 sets forth the following guidelines for the selection and use of tests:

* The tests are validated for the specific purpose for which they are used.
* The tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotients.
* The tests are selected and administered so as best to ensure that when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or what ever other factors which the test purports to measure.

The interdisciplinary team of certified specialists can ensure that problems are resolved in the assessment process. Ysseldyke (1983) found a number of problems in the referral process, the availablity and use of appropriate assessment tools, quidelines for the determination of eligibility, and the conduct and content of committee meetings. Committee members can further assist in eleiminating inconsistencies in the referral, assessment, and classification of students of minority and/or socioeconomic status.

Miller (1984), in commenting on the inconsistencies in the referral, and classification assessment of students of minority and/or socio-econmic status cites that these are problems in public special education programs and correctional programs. She further points out that "the tendency of I.Q. scores to understimate the intellectual ability of Black students can result in overclassification of members of the group into the mentally retarded category." At the same time, there is an underrepresentation of Blacks in programs for the learning disabled due to the severe discrepancies between ability and performance as evidenced by low I.Q. scores (Collins and Gamblin, 1983)

The labeling of literally thousands of youth as educable menally retarded places a stigma on the individual which he/she will wear for a lifetime. Wright and Isenstein (1975) cite as one of the most devastating results of misclassification and labeling that "children who are misclassified and labeled as different may be permanently stigmatized and may experience rejection by those in the immediate environment."

Psychologists should be aware that a qualitative assessment is more important and relevant than a quantitative assessment. Quantitative tests do not provide adequate information of the resident's functioning in perceptual areas. Specific diagnostic tests for determining handicapping conditions may include but are not limited to the following:

* Illinois Test of Psycholinguistic Abilities
* Detroit Test of Learning Aptitudes
* Bender Visual Motor Gestalt Test
* Developmental Test of Visual Motor Integration
* Frostig Developmental Tests of Visual Perception
* Northwestern Syntax Screening Test

Diagnostic Achievement Tests may include:

- Wide Range Achievement Test
- Peabody Individual Achievement Test
- Vineland Social Maturity Scale

In making an assessment of the resident's emotional and intellectual status, the psychologist gathers information from three (3) sources: observation, standardized tests and case history information. The psychologist's report should not be the sole basis for identifying a resident as handicapped. This information must be considered with other assessment data from teachers, medical and non-medical personnel.

Classroom Teacher

The classroom teacher should present to the interdisciplinary team of support personnel initial, relevant developmental data on the level of cognitive, affective and psychomotor functioning of the student. Specific records should include the following:

- the current performance of the student
- specific interventive strategies attempted
- specific informal and formal test data
- physical appearance
- movement
- attention
- interpersonal relationships

The classroom teacher assists the team in understanding the student's behavior in the classroom.

A comprehensive educational assessment is important in evaluating the individual suspected of being handicapped. This evaluation is often completed by a teacher who has professional preparation and experience in teaching exceptional children. The following areas should be included in the educational assessment:

- visual perception and discrimination
- gross and fine motor coordination
- reading
- mathematics
- auditory perception
- oral expressive language

The educational assessor or specialist should be highly trained in administering and interpreting educational tests. This information is helpful to formally share with the psychologist and other team members in obtaining a lucid picture of the educational level of the student.

Social Worker (Caseworker)

The role of the social worker is vital in the assessment of residents suspected of being handicapped. As a school social worker he/she should possess specific skills in serving as a liaison between the facility and school. The social worker may be the first person who contacts the resident. Social workers may function in the following ways:

1. prepare a social history
2. prepare a developmental history
3. prepare an assessment of the individual and family
4. elicit information on how the resident relates to his/her environment
5. serve as liaison with committee members
6. provide interpretation of assessment data
7. provide information to the interdisciplinary team on the individual, family background and other pertinent data
8. relate with special services - i.e., medical, social
9. hold a diagnostic interview with relevant individuals
10. prepare an evaluation of how the individual relates in the facility and with peers
11. assist others in dealing with social, emotional, and health problems of the person
12. assist in counseling and maintain a therapeutic relationship with the individual

Social workers may also be called upon to assist in intervention programs for the resident. The work of the social worker is important in gathering information on the individual which provides a background of understanding the problem. The social case history is shared with the team of specialists and provides essential information gathered from observation, school records and other interviews.

The Counselor

The counselor or treatment specialist is generally responsible for the coordination of the interdisciplinary team. Specific responsiblities include but are not limited to the following:

- review and present comprehensive school information
- present information and observations on cases presented by team members
- provides counseling sessions to residents
- meet with various staff members to discuss cases

When a resident is referred, there should be, as in all referrrals, specific information on pre-referral strategies used by teachers, counselors, psychologists, social workers and other workers to deal with the problem at the school level. This information schould include specific data on (1) behavior and academic performance observed (2) what adjustments were suggested and made to provide support to the student in the regular classroom setting (3) what evaluations were

made of student progress and (4) what interventions did or did not work. The team members should be prepared to discuss their perceptions of the student's functioning in the cognitive, affective and psychomotor areas.

Physical and Medical Examinations

Realizing the importance of an up-to-date physical examination, it is important to have a comprehensive medical examination for residents suspected of being handicapped. This information is helpful to the interdisciplinary team in obtaining a picture of the general health of the student.

Speech and Hearing Assessment

A thorough evaluation of speech and hearing is important in understanding the student. This evaluation is generally performed by a speech and language pathologist and/or an audiologist. The primary purpose of these examinations is to determine the level of the resident's speech and language usage. Information is important in knowing the degree to which the resident understands spoken language. The work of the speech and languane pathologist and an audiologist is significant in understanding if the individual has disorders or disabilities in the speech and language area which affect reading.

Writing the Report

In the assessment phase of a suspected handicapped resident, the interdisciplinary team prepares a written report of the results of the comprehensive evaluation. This report must include a statement of:

a. whether the resident is handicapped;
b. the basis for making the determination;
c. the relevant behavior noted during the observation of the resident
d. the relationshep of that behavior to the residents academic functioning;
e. the educationally relevant medical findings, if any;
f. whether there is a severe discrepancy between achievement and ability which is not correctable without special education and related services;
g. the determination of the team concerning the effects of environmental, cultural, or economic disadvantage;
h. each team member shall certify in writing whether the report reflects his or her conclusion. (If the report does not reflect his or her conclusion, that team member must submit a separate statement)

Interdisciplinary Team's Role in Placement

The interdisciplinary team is essential in the overall interpretation of evaluation data which leads to a placement decision. In interpreting evaluation data, special attention must be given to the following requirements:

- the evaluation information is from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

* information obtained from all these sources is documented and carefully considered;
* the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options; and
* the placement decision is made in conformity with the least restrictive enviroment rules.

Correctional facilities urgently need to address the special needs of handicapped and suspected handicapped inividuals. This need is most appropriately achieved through adherance to P.L. 94-142. Guidelines for the identification, assessment and placement of individuals are clearly stated and ensure that their rights are protected. Incarcerated individuals must not be screened differently from other individuals. Failure to comply with P.L. 94-142 will promote the assumption that incarcerated individuals do not count. It further promotes a denial of intervention and habilitation plans and programs to assist in the areas that most often caused the individual to commit crimes and be sentenced to prison.

Writing in the Black Mentally Retarded Offender, Douglas G. Glasgow concludes the following:

> "I cannot believe that the large numbers of young Black men incarcerated in the prison system across the country are jailed primarily because they do not have motivation to be positively socially involved, do not desire to work, and are not capable of holding a good, decent job that provides a steady, decent and liveable income. I cannot believe that some psychological disability, some learning handicap, some emotional retardant factor is driving large numbers of Black youth to criminality and deviancy. No, I rather suspect that poor Black youth in masses fail, are low achievers and are found in various deviant activity because of the absence of a truly supportive network geared to assure their achievement and passage."

Youthful offenders must be supported and assisted in acquiring and maintaining life skills which will help them in leading productive lives upon their release to the community. In this respect, correctional educators, leaders and all concerned must be diligent in their efforts to promote and provide a second chance. This paper has attempted to present a model for the identification, assessment and placement of suspected handicapped individuals. It is a model designed to assist in providing for the individual needs of residents without the massive labeling of residents as handicapped. It is an attempt to (1) assist the regular classroom teacher in intervening with supportive personnel assistance and (2) provide a process for referring residents for additional services whose needs cannot be appropriately and effectively met within existing resources within the regular classroom setting. Ultimately, the objective of this model is to protect the rights of youth and enable them to be healthier in the broadest sense of the word.

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